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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,318	10/31/2000	Elizabeth T. Whitaker	9028	9787
26890	7590	10/19/2004		
JAMES M. STOVER NCR CORPORATION 1700 SOUTH PATTERSON BLVD, WHQ4 DAYTON, OH 45479			EXAMINER FERNSTROM, KURT	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/702,318

Applicant(s)

WHITAKER ET AL.

Examiner

Kurt Fernstrom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 and 13 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9-12 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 recites the limitation "framework software means". Under 35 USC 112, ¶6, "means plus function" language is to be examined in light of the specification. Such language must include "means for" performing such function. The language of claim 8 makes it unclear whether applicant is attempting to invoke this section of 35 USC 112. Appropriate correction is required. Claim 14 is rejected for similar reasons, as the claim recites a "server means" without making clear whether 35 USC 112, ¶6 is to be invoked.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert in view of Ziv-El. Siefert discloses in column 8, line 53 to column 9, line 21

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of the specification a system and method of delivering lessons to a user over a computer comprising the steps of assessing a user's educational standing, based on the number and type of lessons previously completed, and making a lesson available to the user based on the assessment. Siefert fails to disclose that a number of lesson options are presented to the student to allow the student to choose from a list of appropriate lessons. Ziv-El discloses in column 20, lines 20-22 and in column 24, lines 9-11 a system and method of delivering lessons to a user whereby the user can access a list of available lessons based on the educational standing of the user by pressing button 163, and then selecting one of the lessons to work on. It would have been obvious to one of ordinary skill in the relevant art to modify the method disclosed by Siefert by providing a list of appropriate lessons from which a user may select one for the purpose of allowing the user to choose from a plurality of available lessons in selecting a lesson to be received. Although icons are not explicitly disclosed by Siefert or Ziv-El, Official Notice is taken that icons are a widely known means of allowing a user to choose from a list of options on a computer. With respect to claim 3, Siefert discloses in column 9, line 23 to column 10, line 63 that lessons are provided based on a path taken by the student. As mentioned in the prior Office Action, column 9, lines 1-5 in particular discloses the use of a path. With respect to claim 4, Siefert discloses in column 4, line 65 to column 5, line 7 that the lessons are delivered over a public-access network. With respect to claim 5, Ziv-El discloses in column 6, lines 5-6 that the network used to transmit information comprises packet switching communication protocol. It would have been obvious to one of ordinary skill in the relevant art to modify

the method disclosed by Siefert by providing a packet switched network for the purpose of facilitating transmittal of information over the network. With respect to claim 7, Official Notice is taken that it is well known to display "active" and "inactive" icons, where the user can initiate a sequence only by selecting an "active" icon, as for example in computer games where certain advanced scenarios are not available for selection until certain tasks are performed. Displaying icons in this manner would have been obvious to one of ordinary skill in the relevant art for the purpose of allowing the user to view unavailable as well as available lessons, to see what may be available in the future. With respect to claim 8, the disclosure of Siefert in column 9, lines 1-5 that lesson 13 is presented after lessons 1-12 have been completed amounts to a course structure file which indicates whether prerequisite courses are to be taken before presentation of a given lesson. With respect to claims 10, Official Notice is taken that it is well known to display additional icons upon achievement of certain tasks, as for example in computer games where certain advanced scenarios are not available for selection until certain tasks are performed.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert in view of Ziv-El, and further in view of Parry. Siefert as viewed in combination with Ziv-El discloses all of the limitations of the claims with the exception of the step of removing selected icons. Parry discloses in column 2, line 62 to column 3, line 20 a method of presenting lessons over a computer whereby the computer detects when a student has mastered a concepts and removes those concepts from study until the next review session. It would have been obvious to one of ordinary skill in the

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relevant art to modify the method disclosed by Siefert as viewed in combination with Ziv-El by providing a step of selectively removing icons for the purpose of allowing the user to more easily focus on concepts not yet mastered. While Parry does not explicitly disclose that icons are removed, Parry suggests the claimed limitation because it is directed to the same concept of removing items from a user's display during an educational process for the same purpose of allowing the student to focus on concepts that have not yet been mastered.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert in view of Ziv-El, and further in view of Truluck. Siefert as viewed in combination with Ziv-El discloses all of the limitations of the claims with the exception of the step of refraining from making lessons available at certain predetermined times. Truluck discloses in column 4, line 55 to column 5, line 5 a method of presenting lessons over a computer whereby the computer detects certain time periods and refrains from presenting the lessons during those time periods. It would have been obvious to one of ordinary skill in the relevant art to modify the method disclosed by Siefert as viewed in combination with Ziv-El by providing a step of refraining from making lessons available at certain predetermined times for the purpose of pacing the user properly and constructing a reasonable study plan.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert in view of Ziv-El and Parry, and further in view of Truluck. Siefert as viewed in combination with Ziv-El discloses all of the limitations of the claim with the exception of the step of refraining from making lessons available at certain predetermined times.

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Truluck discloses in column 4, line 55 to column 5, line 5 a method of presenting lessons over a computer whereby the computer detects certain time periods and refrains from presenting the lessons during those time periods. It would have been obvious to one of ordinary skill in the relevant art to modify the method disclosed by Siefert as viewed in combination with Ziv-El by providing a step of refraining from making lessons available at certain predetermined times for the purpose of pacing the user properly and constructing a reasonable study plan.

#### ***Allowable Subject Matter***

Claims 6 and 13 are allowed.

Claims 8, 14 and 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

#### ***Response to Arguments***

Applicant's arguments filed on September 3, 2003 with respect to claims 1-5, 7, 10, 11, 12 and 16-18 have been fully considered but they are not persuasive.

With respect to the rejections under 35 USC 112, applicant's explanation that the "means" of claims 8 and 14 is intended to invoke 35 USC 112, para. 6, is appreciated. However, applicant is nevertheless requested to amend the claim language to read "means for...identifying a student," etc., to make clear to those viewing the claims that the claims are to be interpreted under 35 USC 112, para. 6.

With respect to claims 1-5 and 7, the prior art viewed in combination suggests the claimed invention. Applicant asserts that the prior art fails to disclose two groups of lessons. However, Siefert and Ziv-El, viewed in combination, suggest two such groups, as discussed in the prior Office Action. With respect to the argument that the **claimed** assessment is not shown in Siefert, it is not at all clear what elements of the claimed assessment are absent from the prior art. Claim 1 recites: "making an educational assessment of the educational standing of a person utilizing the display." In other words, an assessment. Siefert reads on this language. . The connection of the assessment to the providing of available lessons is disclosed by Siefert; the disclosure of Ziv-El merely expands the "lesson" available to a plurality of lessons. The lessons provided by Ziv-El in column 24, lines 9-11 are also based on an assessment of the student; the only difference being that the assessment is done by a teacher, and not by a computer. Ziv El further discloses the motivation for providing a list of lessons; namely, allowing a user to choose a particular lesson from a group thereof.

Applicant's argument on page 10 concerning the inappropriateness of modifying Ziv-El by adding the teachings of Siefert is unpersuasive. No modification of Ziv-El has been proposed. Rather, the teachings of Siefert are being modified with those of Ziv-El. Applicant's admission that Ziv-El suggests presenting a list of lessons from which a user may choose does not exactly overcome the rejection. It should also be noted that claim 1 does not recite that the assessment is done via computer; any assessment, including that of a teacher, would read on the claim. Because both Siefert and Ziv-El disclose



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making lessons available based on an assessment of the user, the combination of references is proper.

The Official Notice concerning the use of icons is maintained, for reasons set forth in prior Office Actions.

With respect to claim 2, applicant's attention is drawn to the following language, which appeared in the prior Office Action and is repeated above:

Siefert discloses in column 8, line 53 to column 9, line 21 of the specification a system and method of delivering lessons to a user over a computer comprising the steps of assessing a user's educational standing, **based on the number and type of lessons previously completed**, and making a lesson available to the user based on the assessment.

Claim 2 is rejected.

With respect to claim 3, the term "a path" is very broad. Also, Siefert reads on the claim language. Siefert discloses in column 9, lines 1-5 one example of a path which is used to determine an educational standing. In this case, the student has successfully completed lessons 1-12, resulting in lesson 13 being made available. Lessons 1-12 are materials made available to a user, and also comprise a path through which the user travels. The path is observed, as the completion of lessons 1-12 is tracked. The educational standing is measured by reference to how many lessons have been completed. The presentation of lesson 13 depends on lessons 1-12 being successfully completed. There is nothing in claim 3 which overcomes the disclosure of Siefert.

Claims 7 and 10 remain rejected, for reasons set forth in the prior Office Action, which made clear the types of icons being relied upon.

Claims 8 and 14 were previously listed as containing allowable subject matter.

Applicant's arguments with respect to claims 11 and 12 have been considered but are not persuasive. Perry discloses the removal of subject material. Icons are a very well known means of representing material which may be accessed on a computer, as discussed herein and in prior Office Actions. Perry, when viewed with the prior art as a whole and the knowledge generally available to one of ordinary skill in the art, suggests the claimed invention.

The arguments pertaining to the rejections of claims 16-18 are unpersuasive, for reasons stated in the prior Office Action. Nothing in the claims remotely implies a plurality of displays, or a plurality of students. There is no suggestion in Truluck that a plurality of users use a single display. Further, "display" can refer not only to a physical computer monitor, but a page which is viewed by a user when logged in. In this sense, Truluck certainly reads on the pertinent claim language of claims 16-18. A student in Truluck who defines "dead times" in his own schedule is creating predetermined periods of time during which lessons are not made available to the display. A student in Truluck who changes his schedule is merely creating new predetermined periods of time during which lessons are not made available to the display.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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KF  
October 17, 2004

A handwritten signature in black ink, appearing to read "Kurt Fernstrom". The signature is stylized with a large, looped "K" and a cursive "F".

**KURT FERNSTROM  
PRIMARY EXAMINER**